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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 RANDELL EMBRY,

11 Plaintiff,

12 v.

13 PIERCE COUNTY DETENTION
CORRECTIONS CENTER, *et al*,

14 Defendants.
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Case No. C09-5276FDB-KLS

ORDER REGARDING
PLAINTIFF'S FILING OF
REQUEST TO DISMISS AND
AMENDED COMPLAINT

18 This case has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C.
19 § 636(b)(1)(B). This matter comes before the Court upon plaintiff's filing of a motion to dismiss
20 his civil rights complaint (Dkt. #11) and an amended complaint (Dkt. #12). After reviewing the
21 motion and amended complaint, as well as the remainder of the record, the Court hereby does find
22 and ORDERS as follows:

23 On July 17, 2009, the Court issued a second order to show cause, directing plaintiff to file a
24 second amended complaint, due to certain deficiencies in the first amended complaint he previously
25 had been directed to file. (Dkt. #8-#10). On August 21, 2009, plaintiff filed a motion to voluntarily
26 dismiss his complaint, because the parties apparently had reached a resoluton, along with a request to
27 have his *in forma pauperis* status removed, because he could no longer afford to make the required
28 monthly payments with respect thereto. (Dkt. #11). On September 10, 2009, however, plaintiff filed

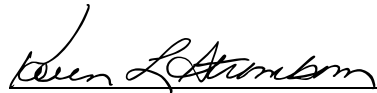
1 a second amended complaint. (Dkt. #12).

2 Accordingly, it is not clear how plaintiff wishes to proceed with this case. That is, the Court
3 cannot determine whether plaintiff still wishes to have the Court consider his motion to dismiss and
4 request for removal of *in forma pauperis* status heard, or whether he wishes to withdraw that motion
5 and instead have the Court consider his second amended motion.

6 As such, plaintiff hereby is directed to inform the Court in writing by **no later than October**
7 **21, 2009**, as to how he would like to proceed in this matter. **Plaintiff is warned, however, that if**
8 **no such response is received by the above date, the Court will take this to mean he wishes to**
9 **strike his motion to dismiss and request for removal of *in forma pauperis* status and instead**
10 **have his second amended complaint considered, and will proceed accordingly.**

11 The Clerk is directed to send a copy of this Order to plaintiff.

12 DATED this 21st day of September, 2009.

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16 Karen L. Strombom
17 United States Magistrate Judge
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